

A **ELITPROP SDN BHD v. YEO PING TIENG & ORS AND
ANOTHER APPEAL**

COURT OF APPEAL, PUTRAJAYA
HAMID SULTAN ABU BACKER JCA
ABDUL RAHMAN SEBLI JCA

B ASMABI MOHAMAD JCA
[CIVIL APPEALS NO: W-02(W)-1230-08-2015 &
W-02(W)-1231-08-2015]
14 FEBRUARY 2017

C **LAND LAW:** *Indefeasibility of title and interests – Sale and purchase of property – Sale of beneficial interest in property by housing developer to plaintiff without knowledge of registered proprietor – Whether plaintiff failed to show nature of beneficial interest in property – Whether plaintiff had right in rem or right in personam on title – Whether only registered proprietor could create beneficial interest out of his title – Registered proprietor not party to sale and purchase agreement – Property transferred to defendant by registered owner – Whether defendant obtained good title from registered proprietor which was indefeasible under s. 340 of National Land Code*

E This was the third defendant's appeal against the decision of the trial judge relating to law of assignment, fraud and indefeasibility of title where the plaintiffs had succeeded partly. Javanista Sdn Bhd ('the first defendant') was the developer of a piece of land owned by PKNS. To settle the debts between the first defendant and its contractor, Design Selection Sdn Bhd ('the second defendant') and its subcontractor, Biaxis Sdn Bhd ('the second plaintiff'), the first defendant agreed to sell a plot ('the lot') in the land to the second plaintiff. One Yeo Ping Tieng ('the first plaintiff'), the director of the second plaintiff, was nominated to receive the said lot. The lot was charged by the first plaintiff to Public Bank Berhad ('the third plaintiff'). The charge was secured by a facilities agreement, a deed of assignment and a power of attorney. However, it was later discovered that the first defendant had sold the lot to Elitprop Sdn Bhd ('the third defendant') which had become the registered owner thereof. A private caveat was lodged on the property by the first plaintiff, who along with the second and third plaintiffs ('the plaintiffs') claimed they were victims of a conspiracy to defraud and subsequently sued the first, second and third defendants. In the High Court, the plaintiffs sought, *inter alia*, a declaration that the first plaintiff was the true owner of the lot subject to the third plaintiff's charge thereon and the purported sale and purchase agreement selling the lot to the third defendant was invalid. An order was sought by the plaintiffs that the land register be rectified to record the first plaintiff as the owner of the lot and the third plaintiff as the chargee.

I The third defendant counterclaimed for damages against the first plaintiff for wrongfully entering a private caveat. The High Court allowed the plaintiffs'

claim but ordered them to pay the third defendant RM314,844, the price the third defendant supposedly paid for the property. The High Court also dismissed the third defendant's counterclaim. The third defendant and the plaintiffs were dissatisfied with the High Court's said decision and appealed. At the hearing of the appeals, the third defendant argued that (i) the plaintiffs failed to show the nature of the beneficial interest in the lot that the first defendant had sold to the first plaintiff as the latter was not even the registered owner of the property; and (ii) that there was no evidence to show that the third defendant had been party to any fraud. It was the third defendant's argument that it had become the registered owner of the lot by way of a memorandum of transfer executed by PKNS, the previous owner, and as such, had acquired an indefeasible title to the property which could not be defeated under s. 340 of the National Land Code ('the NLC').

Held (allowing third defendant's appeal; dismissing plaintiffs' appeal; setting aside orders of the High Court)

Per Hamid Sultan Abu Backer JCA delivering the judgment of the court:

- (1) All the agreements were signed in 2006 but there was no endorsement of the sale and purchase agreement by PKNS, to give the plaintiffs a right *in rem* to impeach the title pursuant to s. 340 of the NLC. What the plaintiffs had at the most was a *personam* action as PKNS was already holding a separate document of title for the said lot in 2005 itself. Subsequently, the first plaintiff had charged the property to the third plaintiff based on facilities agreement, deed of assignment, power of attorney, a transaction which would only be relevant if there was no title issued to the property. The trial judge's failure to deal with the title issue as well as the related sale and purchase agreement and assignment *etc* was an omission which compromised the decision-making process. This issue which went to the heart of the plaintiffs' *locus standi* was a jurisdictional issue related to s. 340 of the NLC which ought to have been considered whether or not it was the pleaded case of the parties. (para 8)
- (2) The settlement agreement and the sale and purchase agreement which the first and second plaintiffs and the subsequent charge given to the third plaintiff in the year 2006 was done so when the individual title to the lot had been issued. From the documents before the court, the title to the lot had been issued in the name of PKNS. PKNS was the registered proprietor of the property. However, PKNS who had the title to its name to the property was not a party to the sale and purchase agreement related to the plaintiffs and in consequence, s. 340 of the NLC was of no assistance to the plaintiffs in this suit. Only a registered proprietor could create a beneficial estate out of his title. The third defendant was the registered proprietor of the land, having obtained

- A good title from PKNS which was indefeasible under s. 340 of the NLC, which rendered the plaintiffs' claim unsustainable as per the pleaded case. (para 17)

Bahasa Malaysia Headnotes

- B Ini adalah rayuan defendan ketiga terhadap keputusan hakim bicara berhubung undang-undang penyerahakkan, penipuan dan hak milik yang tidak boleh disangkal di mana plaintiff-plaintif telah berjaya sebahagiannya. Javanista Sdn Bhd ('defendan pertama') adalah pemaju sebidang tanah milik PKNS. Untuk melangsaikan hutang antara defendan pertama dan kontraktornya, Design Selection Sdn Bhd ('defendan kedua') dan subkontraktor Biaxis Sdn Bhd ('plaintif kedua'), defendan pertama bersetuju menjual satu plot ('lot') dalam tanah itu kepada plaintiff kedua. Satu Yeo Ping Tieng ('plaintif pertama') pengarah plaintiff kedua, dicalonkan untuk menerima lot tersebut. Lot digadaikan oleh plaintiff pertama kepada Public Bank Berhad ('plaintif ketiga'). Gadaian dijamin oleh perjanjian kemudahan, surat ikatan penyerahakkan dan satu surat kuasa wakil. Walau bagaimanapun, didapati kemudiannya bahawa defendan pertama telah menjual lot tersebut kepada Elitprop Sdn Bhd ('defendan ketiga'), yang menjadi pemilik berdaftar. Satu kaveat persendirian telah dimasukkan atas tanah oleh plaintiff pertama, dan bersama-sama dengan plaintiff kedua serta plaintiff ketiga ('plaintif-plaintif') mendakwa bahawa mereka adalah mangsa konspirasi penipuan dan dengan itu menyaman defendan pertama, kedua dan ketiga. Di Mahkamah Tinggi, plaintiff menuntut, antara lain, pengisytiharan bahawa plaintiff pertama adalah pemilik sebenar subjek lot kepada gadaian plaintiff ketiga dan perjanjian jual beli menjual lot itu kepada defendan ketiga adalah tidak sah. Satu perintah dituntut oleh plaintiff-plaintif bahawa tanah daftar diratifikasikan untuk merekodkan plaintiff pertama sebagai pemilik lot dan plaintiff ketiga sebagai pemegang gadaian. Defendan ketiga menuntut balas untuk ganti rugi terhadap plaintiff pertama kerana kesalahan memasukkan kaveat persendirian. Mahkamah Tinggi membenarkan tuntutan plaintiff-plaintif, tetapi memerintahkan plaintiff-plaintif membayar kepada defendan ketiga amaun RM314,844, jumlah yang dibayar oleh defendan ketiga untuk tanah itu. Mahkamah Tinggi juga menolak tuntutan balas defendan ketiga. Defendan ketiga dan plaintiff-plaintif tidak berpuas hati dengan keputusan Mahkamah Tinggi tersebut dan merayu. Semasa perbicaraan rayuan-rayuan, defendan ketiga menghujahkan (i) plaintiff-plaintif gagal menunjukkan sifat kepentingan benefisiari dalam lot yang telah dijual oleh defendan pertama kepada plaintiff pertama kerana plaintiff pertama bukanlah pemilik berdaftar tanah itu; dan (ii) tiada keterangan menunjukkan defendan ketiga terlibat dengan apa-apa penipuan. Defendan ketiga mendakwa telah menjadi pemilik berdaftar lot itu melalui memorandum pindah milik yang dilaksanakan oleh PKNS, pemilik sebelum ini, dan dengan itu ia telah memperoleh hak milik tak boleh disangkal ke atas tanah itu yang tidak boleh ditolak bawah s. 340 Kanun Tanah Negara ('KTN').
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**Diputuskan (membenarkan rayuan defendan ketiga; menolak rayuan plaintiff-plaintif; mengetepikan perintah-perintah Mahkamah Tinggi)
Oleh Hamid Sultan Abu Backer HMR menyampaikan penghakiman mahkamah:**

- (1) Semua perjanjian ditandatangani pada tahun 2006 tetapi tiada pengendorsan perjanjian jual beli oleh PKNS, untuk memberikan plaintiff-plaintif hak *in rem* untuk mencabar hak milik menurut s. 340 KTN. Plaintiff-plaintif hanya mempunyai tindakan *personam* kerana PKNS sudah memegang dokumen hak milik berasingan untuk lot tersebut pada tahun 2005. Kemudiannya, plaintiff pertama menggadaikan tanah kepada plaintiff ketiga berdasarkan perjanjian kemudahan, surat ikatan penyerahakkan, surat kuasa wakil, satu transaksi yang hanya relevan jika tiada hak milik dikeluarkan atas tanah itu. Kegagalan hakim bicara menangani isu hak milik dan juga perjanjian jual beli dan penyerahakkan dan lain-lain adalah satu peninggalan mengkompromikan proses membuat keputusan. Isu mempertikaikan *locus standi* plaintiff adalah isu bidang kuasa berhubungan s. 340 KTN yang harus dipertimbangkan sama ada ia adalah kes yang diplidkan oleh pihak-pihak terlibat.
- (2) Perjanjian penyelesaian dan perjanjian jual beli plaintiff pertama dan kedua dan gadaian seterusnya kepada plaintiff ketiga pada tahun 2006 dilakukan apabila hak milik individu ke atas lot telah dikeluarkan. Daripada dokumen-dokumen di hadapan mahkamah, hak milik atas lot itu telah pun dikeluarkan dalam nama PKNS pada tahun 2005. PKNS adalah pemilik berdaftar tanah. Walau bagaimanapun, PKNS yang mempunyai hak milik ke atas tanah itu bukan pihak pada perjanjian jual beli berhubungan plaintiff-plaintif dan akibatnya, s. 340 KTN tidak dapat membantu plaintiff-plaintif dalam guaman ini. Hanya pemilik berdaftar boleh mewujudkan estet benefisiari daripada hak miliknya. Defendan ketiga adalah pemilik berdaftar tanah, atas pemerolehan hak milik sah daripada PKNS yang tidak boleh disangkal bawah s. 340 KTN, yang menjadikan tuntutan plaintiff-plaintif tidak boleh dikekalkan mengikut kes yang dikemukakan.

Case(s) referred to:

Borneo Housing Mortgage Finance Bhd v. Time Engineering Bhd (Formerly known as Time Engineering Sdn Bhd) [1996] 2 CLJ 561 FC (*refd*)
Kamdar Sdn Bhd v. Bipinchandraa Balvantrai & Ors [2017] 1 CLJ 369 CA (*refd*)
Yeo Ping Ting & Satu lagi lwn. Janavista Sdn Bhd & Yang Lain [2015] 1 LNS 923 HC (*refd*)

Legislation referred to:

Courts of Judicature Act 1964, s. 69
 National Land Code, s. 340
 Rules of Court 2012, O. 34

- A** *(Civil Appeal No: W-02(W)-1230-08-2015)*
For the appellant - Gopal Sri Ram, Lim Choon Kim, Yau Wai Leong & David Yii;
M/s Chan & Assocs
For the respondent - SK Liow, Barry Goh & Jennifer Lai; M/s Liow & Co
(Civil Appeal No: W-02(W)-1231-08-2015)
- B** *For the appellant - SK Liow, Barry Goh & Jennifer Lai; M/s Liow & Co*
For the respondent - Gopal Sri Ram, Lim Choon Kim, Yau Wai Leong & David Yii;
M/s Chan & Assocs
[Editor's note: For the High Court judgment, please see Yeo Ping Tieng & Anor v. Design Selection Sdn Bhd & Ors [2012] 1 LNS 31 (overruled).]
- C** *Reported by Suhainah Wahiduddin*

JUDGMENT

Hamid Sultan Abu Backer JCA:

- D** **[1]** The appellant/third defendant's appeal (W-02(W)-1230-08-2015) is against the decision of the learned trial judge relating to law of assignment, fraud and indefeasibility of title where the respondents/plaintiffs succeeded partly. The respondents/plaintiffs also have filed an appeal (W-02(W)-1231-08-2015). The plaintiffs' prayers and the third defendant's prayers in respect
- E** of the claim and counterclaim read as follows:
- (a) The plaintiffs' prayers:
- F** 43.1 Satu deklarasi bahawa Perjanjian Jual Beli Lot tersebut bertarikh 4/4/2006 adalah sah, dan Plaintiff Pertama ialah pemilik Lot tersebut yang sah;
- G** 43.2 Satu deklarasi bahawa Perjanjian Pembinaan Perumahan tersebut bertarikh 4/4/2006 adalah sah, dan Plaintiff Pertama ialah pemilik Rumah tersebut yang sah;
- 43.3 Satu deklarasi bahawa Perjanjian Jual Beli Lot Kedua tersebut bertarikh 28/7/2009 adalah tidak sah;
- H** 43.4 Satu deklarasi bahawa Plaintiff Ketiga adalah berhak untuk didaftarkan sebagai Penerima Gadaian bagi Lot tersebut;
- 43.5 Satu deklarasi bahawa mana-mana Perjanjian Jual Beli seterusnya untuk Hartanah tersebut (jikalau ada) juga adalah tidak sah;
- I** 43.6 Suatu Memorandum Pindahmilik yang sah dan boleh didaftarkan yang berpihak kepada Plaintiff Pertama dan Hakmilik Asal hendaklah dihantARSERahkan oleh Defendan Pertama kepada Plaintiff Ketiga iaitu Public Bank Berhad untuk disempurnakan dan didaftarkan;

43.7 Perintah Retifikasi kepada Pejabat Tanah berkenaan berdasarkan Sekyen 417 Kanun Tanah Negara (1965) bahawa nama Defendan Ketiga dalam Hakmilik Individu Lot tersebut dibatalkan dan nama Plaintiff Pertama didaftarkan di atas Hakmilik Individu Lot tersebut sebagai pemilik, dan juga gadaian Plaintiff Ketiga iaitu Public Bank Berhad didaftarkan ke atas Hakmilik Individu Lot tersebut sebagai penggada;

A

43.8 Penghakiman terhadap jumlah wang sebanvak RM566,370.00 sebagai wang tebusan 'Redemption Sum' kepada Bank Bumiputra Commerce Berhad yang masih dihutangi oleh Defendan Pertama;

B

43.9 Faedah pada kadar 5% setahun ke atas RM566,370.00 yang dikira dari 6/9/2006 sehingga penyelesaian penuh terhadap Defendan Pertama dan Defendan Kedua;

C

43.10 Penghakiman terhadap jumlah RM261,719.84 terhadap Defendan Pertama dan Defendan Kedua;

43.11 Faedah pada kadar 8% setahun ke atas RM261,719.84 yang dikira dari 23/8/2010 sehingga penyelesaian penuh terhadap Defendan Pertama dan Defendan Kedua;

D

43.12 Perintah Restitusi dan ganti rugi daripada Defendan Pertama dan Defendan Kedua untuk sebarang kerugian yang akan dikenakan atau "Loss of expected profit" sekiranya Plaintiff Pertama gagal menuntut balik Hakmilik Individu Lot tersebut;

E

43.13 Yuran peguam dan yuran kaunsel bagi guaman ini di bayar kepada Plaintiff-plaintif masing-masing oleh Defendan-defendan;

43.14 Kos Mahkamah; dan

43.15 Lain-lain perintah atau relif yang dianggap sesuai dan adil oleh Mahkamah Yang Mulia ini.

F

(b) The third defendant's prayers:

22. Oleh yang demikian, Defendan Ketiga menuntut daripada Plaintiff Pertama:

G

(a) Gantirugi untuk kerugian dan kerosakkan yang dialami akibat daripada kemasukkan kaveat persendirian yang tidak betul dan tidak sah di mana gantirugi tersebut akan ditaksirkan oleh Mahkamah;

(b) Faedah pada kadar 8% setahun ke atas gantirugi yang ditaksir oleh Mahkamah dan dikira dari 25.5.2010 sehingga penyelesaian penuh;

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(c) Kos; dan

(d) Relif-relif selanjutnya yang difikir suaimanfaat dan adil oleh Mahkamah yang mulia ini.

I

- A [2] The learned trial judge had written a 22 pages judgment in a style of
a letter without setting the law or relevant statutory provisions or case laws
and not even the facts or evidence to justify the judgment and grounds of a
High Court worthy of any form of judicial reference by this court. The
judgment repeats (i) issues set out by the plaintiffs; (ii) issues set out by the
B first defendant; (iii) issues set out by the third defendant. The suit was not
properly managed by the trial judge as set out in O. 34 of the Rules of Court
2012, in particular, matters relating to agreed facts or issues. To compound
the problem, the learned trial judge again repeats the issues in the judgment
and without any form of judicial appreciation of facts or evidence or law,
C answers the questions posed by the parties in a manner compromising the
role of judicial accountability to the parties to the action as well as to the
appeal courts. The judgment of the learned trial judge is reported as *Yeo Ping
Ting & Satu Lagi lwn. Janavista Sdn Bhd & Yang Lain* [2015] 1 LNS 923;
[2015] MLJU 799.
- D [3] Learned counsel for the third defendant, Datuk Seri Gopal Sri Ram
who was a former Federal Court Judge took serious objection to the lack of
judicial propriety displayed in the judgment and said that the third
defendant's appeal based on established case laws must be allowed as of right.
- E [4] Learned counsel further *inter alia* asserts as follows:
11. Nowhere in her judgment has the learned judge explained the nature
of the fraud on which she was convicting the third defendant and her
reasons for doing so. With respect, general words such as "based on the
evidence" and "on "a balance of probabilities" are insufficient to support
a finding of fraud because they merely serve to obfuscate and not to
F elucidate. The judicial mind is not revealed. On this ground alone the
appeal should be allowed as it has occasioned a grave miscarriage of
justice of which the third defendant is the victim." [See *Eagil Trust Co Ltd
v. Pigott-Brown* [1985] 3 All ER 119, 122; *R v. Harrow Crown Court Ex Parte
Lingrad* (1998)].
- G [5] However, learned counsel SK Liow for the plaintiffs says that the
judgment which the third defendant sees as anchored on the foundation of
lack of judicial propriety is a speaking judgment, save as to issues relating to
the plaintiffs' cross-appeal. In essence, learned counsel for the plaintiffs
having obtained a favourable decision from the High Court is not prepared
to concede that the judgment suffers from any form of jurisprudential defects
H in form or substance to invite us to set aside the order and send it for retrial
before another judge.
- I [6] The brief facts of the case had been summarised before us as follows:
1. P1 was at all material times and currently a Director and shareholder
of P2.

2. D1 at all material times is the owner and a housing developer of a plot of land known as section 10, Kota Damansara, Daerah Petaling Selangor with a total area of approximately 138,956 square foot (the said property). A
3. On 12.8.2005, D2 awarded one project to P2 for the work piling works for the proposed development of 12 units' semidetached house and 25 units of terrace house on Lot 1539 and 1540 Kampung Kerinchi, Kuala Lumpur (the project). B
4. The Project was completed on 30.12.2005 and Certificate of Practical Completion was issued. P2 alleged that although the project has long been completed, D2 had failed to pay the amount of debt of RM1,477,972.90 to P2. C
5. On 4.4.2006 one settlement agreement was entered between P2 and D2 whereby the settlement agreement would bind the sale and purchase lots and the housing development agreement in which D1 agreed to dispose 1 unit of bungalow to P2 and/or its nominee a lot known as Lot No.9 Type A2 Polo Vista di bawah HSD 222962 PT No. 8656, Pekan Sungai Buloh Daerah Petaling Selangor at No.3, Jalan Kenyalang 11/18A Section 10, Kota Damansara, Pekan Baru, Sg Buloh, Selangor with an area of approximately 6,297.09 square feet amounting to RM879,335.00 where in return D2 agreed to develop a house on the said Lot for RM1,008,565.00. D
6. P2 had nominated P1 and gave him full authority to enter into the sale and purchase agreement for the said Lot and the development agreement for the said property. E
7. The Plaintiffs averred that D1 was supposed to give vacant possession on/before 4.4.2009 however D1 had failed to do so.
8. P1 and/or P2 had made full payment as stated in a letter dated 24.5.2006 from D1 and D2 to P1. F
9. On 3.8.2006, P1 had charged the said property to P3 as P2 needed financial assistance to fund for another project.
10. On 6.9.2006, P3 had issued out loan amounting to RM53, 630.00 and RM599, 143.50 respectively to D1 and D2. On 7.9.2006, D1 and D2 had issued out the said loan to P2. The Plaintiffs averred that the act of D1 and D2 proved that they acknowledged the debts owed to P2. G
11. On 3.3.2010, Messrs ED Louis & Associates had served a bundle of court documents to P1 and P1 alleged that he was shocked to see from the court documents that the said property has been sold by D1 to D3 for an amount which was very nominal i.e. RM314, 844 without the knowledge and/or the permission of P1 and/or P2 and/or P3. Plaintiffs alleged that at all material times, the Defendants knew that P1 was the *bona fide* purchaser of the said property and on 17.4.2009 and 26.5.2009 P1 had sent letters to D1 to remind D1 about the said Property. H
12. On 12.10.2009 the Individual Strata Title of the said property was registered in the name of D3. I

A 13. On 25.5.2010 P1 had lodged a private caveat for the said property to protect his interest and to prevent D1 and/or D3 from conducting any transfer over the said property.

B 14. The Plaintiffs claimed that the Defendants had committed fraud and/or conspiracy against the Plaintiffs without any basis and with *mala fide* when in actual fact D1 had knowledge that the said property has been sold to P1 on 4.4.2006.

15. The learned High Court Judge had allowed the Plaintiffs' claim against D3 save for the Plaintiffs are to pay RM314,844.00 to D3. Dissatisfied with the decision, the Plaintiffs filed this appeal.

C **Preliminaries**

[7] The first defendant was the developer and the owner of the development land was PKNS. The second defendant was the contractor. The second plaintiff was the sub-contractor. The second defendant (the contractor) owed the second plaintiff (the sub-contractor) monies. The first defendant (the developer) owed monies to the second defendant (the contractor). To offset the debts, the first defendant (the developer) agreed to give a lot in the land to the second plaintiff (sub-contractor) with a further agreement that the land will be given to the first plaintiff who was a director of the second plaintiff. The first and second defendants also signed an agreement with the first plaintiff to construct a bungalow on the lot upon payment by the first plaintiff.

F [8] **All the three agreements were signed in the year 2006 but there was no endorsement of the sale and purchase agreement by PKNS**, to give the plaintiffs a right *in rem* to impeach the title pursuant to s. 340 of the National Land Code (NLC). What the plaintiffs had at the most is a *personam* action as PKNS was already holding a separate document of title for the said lot in 2005 itself. The first defendant had not disclosed these facts in the agreements as well as sale and purchase agreement. Subsequently, the first plaintiff had charged the property to Public Bank, based on facilities agreement, deed of assignment, power of attorney, **a transaction which will only be relevant if there is no title issued to the property**. The learned trial judge's failure to deal with the title issue as well as the related sale and purchase agreement and assignment, etc is an omission which compromises the decision-making process. This issue which goes to the heart of the plaintiffs' *locus standi* is a jurisdictional issue related to s. 340 of NLC which ought to have been considered whether or not it was the pleaded case of the parties. (emphasis added).

I [9] It must also be noted that the first defendant had charged the master title to the CIMB Bank and the said lot was redeemed from the loan provided by the third plaintiff. The first defendant, by a subsequent sale and purchase agreement dated 28 July 2009 had sold the said lot as well as another five lots. The said lot was duly transferred pursuant to the NLC to the third

defendant and the third defendant is the registered proprietor of the said lot. In respect of the other lots, we have been told that there were similar suits filed related to different banks. Four of the suits were dismissed by the courts in favour of the appellant. The appellant/third defendant here says that this suit by the plaintiffs also ought to be dismissed.

[10] These appeals also raise an important point of law that is to say, whether an appeal should be allowed as of right when the judgment does not reflect judicial appreciation of facts and law as well incorporation of the same in the judgment. The traditional view has been that if it is not a speaking judgment and relates to finding of facts and demeanour of witness, it has to be set aside as of right and remitted back to the trial court and to be heard by another judge. The saving provision in the Courts of Judicature Act 1964 (CJA 1964) to some extent permits the court to rehear the matter based on the appeal record and where necessary to call for further evidence as well as hearing in the Court of Appeal itself. Section 69 of CJA 1964 reads as follows:

Hearing of appeals

69. (1) Appeals to the Court of Appeal shall be by way of rehearing, and in relation to such appeals the Court of Appeal shall have all the powers and duties, as to amendment or otherwise, of the High Court, together with full discretionary power to receive further evidence by oral examination in court, by affidavit, or by deposition taken before an examiner or commissioner.

(2) The further evidence may be given without leave on interlocutory applications, or in any case as to matter which have occurred after the date of the decision from which the appeal is brought.

(3) Upon appeals from a judgment, after trial or hearing of any cause or matter upon the merits, the further evidence, save as to matters subsequent as aforesaid, shall be admitted on special grounds only, and not without leave of the Court of Appeal.

(4) The Court of Appeal may draw inferences of fact, and give any judgment, and make any order which ought to have been given or made, and make such further or other orders as the case requires.

(5) The powers aforesaid may be exercised notwithstanding that the notice of appeal relates only to part of the decision, and the powers may also be exercised in favour of all or any of the respondents or parties although the respondents or parties have not appealed from or complained of the decision.

[11] The saving provision is rarely exercised if finding of facts and demeanour of witnesses are largely involved. The saving provision will be useful in cases where basic facts and findings are sufficient to determine the appeal. **In the instant case, one important fact which is glaring in the eye of this court is the fact that the title relating to the property in issue was**

- A **already issued as early as 2005 and that too to PKNS.** The agreements which were entered to by the plaintiffs and first and second defendants were in 2006 and the third plaintiff who had given a loan based on the property were dealing with sale and purchase agreement as well as assignment and power of attorney concepts, etc to secure the charge when title has been actually issued. The title issue and the irregular documentation in consequence, in our view as a matter of law will be sufficient to allow the appeal *in limine*. We will deal with these issues later in the judgment. However, for better understanding of our decision, it is important to note that whatever rights the plaintiffs have secured through the first defendant is only a right *in personam* and not a right *in rem* on the title for s. 340 of NLC to apply. (emphasis added).
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Merits

- [12] We will now proceed to deal with the appeals on merits. For the purpose of allowing the appeal as of right based on the contention of the appellant's counsel, the judgment of the High Court must be read together with this judgment to appreciate the problem in hand in the proper perspective. (See [2015] 1 LNS 923; [2015] MLJU 799).
- D

- [13] We do not think it is proper exercise within our jurisprudence to allow an appeal purely on the grounds that the judgment is not a speaking judgment and one which cannot be classified as grounds of judgments, according to law. The proper thing to do in such cases is to either before hearing the merits of appeal, to set aside the judgment and sent it back to the trial court for rehearing the matter before another judge. Support for the proposition is found in a number of cases. Quite recently, Justice Nallini Pathmanathan JCA in the case of *Kamdar Sdn Bhd v. Bipinchandraa Balvantrai & Ors* [2017] 1 CLJ 369 (W-02(NCC)(W)-1295-08-2015) with similar issues in great length, had opined:
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- [112] In these circumstances we have no option but to reluctantly remit this case for rehearing to the High Court. It would not be tenable for this court to undertake the task of making primary findings of fact in respect of the numerous issues that have not been addressed in the current judgment.
- G

- [14] If the appeal can be heard without the need for finding on witnesses' credibility as well as demeanour, etc and can be decided based on settled legal principles, then the appeal must proceed by way of rehearing and the appellate court can come to its own decision whether or not to allow or dismiss the appeal. The pleading rules will play less significance when issues of law are patent from the primary facts and/or evidence.
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[15] It would have been productive in case of a judgment which will not assist the appeal court for the Courts of Judicature Act to have provision for the judgment to be sent back to the trial judge to provide a speaking judgment within a fixed time as the Chief Justice may stipulate. Such a step and amendment will assist the administration of justice and arrest lack of judicial propriety in judgments, the nature of which the third defendant complains off.

Memorandum Of Appeal

[16] The memorandum of appeal of the appellant reads as follows:

1. The Learned Judicial Commissioner erred in law and in fact in allowing the Respondents' claim against the Appellant and dismissing the Appellant's counterclaim. C
2. The learned Judicial Commissioner erred in law and fact in failing to give sufficient judicial evaluation or appreciation of the entire evidence and the law and as to truth or otherwise of the contents and/or admissibility of the documents produced by the Respondents and/or had misdirected herself when drawing an inference and came to the wrong conclusion in relation to all the relevant issues to be decided in the case. D
3. The learned Judicial Commissioner erred in law and fact in not holding that the First and Second Respondents had no *locus standi* to commence the suit in view of assignment of the subject Property to the Third Respondent. E
4. The learned Judicial Commissioner erred in law and fact in failing to apply or apply correctly the legal principles to the issue concerning fraud under section 340 of the National Land Code, conspiracy and other relevant issues to be decided in the case and the appreciate the standard of proof thus occasion a miscarriage of justice. F
5. The learned Judicial Commissioner erred in law and fact in not holding that in the circumstances and on the entirety of the evidence the Respondents had failed to prove the allegation of fraud or conspiracy to default or insufficient or void instrument based on their pleaded case against the Appellant and/or that the title of the Appellant whose name was registered as proprietor of the subject Property was not defeasible. G
6. The learned Judicial Commissioner erred in law and fact and had misdirected her mind having insufficient judicial appreciation that the Appellant was not (a party or privy to the allegation of fraud or conspiracy complained of and/or that the alleged fraud or conspiracy complained of had not resulted in the transfer of the subject Property to the Appellant. H
7. The learned Judicial Commissioner erred in law and fact in failing to appreciate sufficiently that the present new management of Janavista Sdn Bhd ("Janavista") had no prior knowledge of the alleged contra settlement and alleged sale and purchase agreement involving its old I

- A management and the First and Second Respondents and that such evidence is relevant in determining whether the sale of the subject Property to the Appellant in the circumstances of the case was without fraudulent or dishonest intent in law and other relevant legal issues to be decided.
- B 8. The learned Judicial Commissioner erred in law and fact in not holding that the Appellant was not related to Janavista and even if they were related (not admitted), that relationship coupled with the totality of the evidence are insufficient in law to infer any alleged fraud, conspiracy or wrongdoings on the part of the Appellant so as to defeat the Appellant's title, interest or priority over the subject Property.
- C 9. The learned Judicial Commissioner erred in law and fact when in considering the various issues to be decided in the case in attaching too much weight on the evidence of the Respondents without contrasting on the inaction of the Respondents in asserting their alleged title or interests over the subject Property since April 2006 by registering their title or interests and/or that the purchase price was not fully paid or the loan sum not fully disbursed by the Respondents.
- D 10. The learned Judicial Commissioner erred in law and fact in holding that the Appellant had acquired the subject Property at below the alleged market price and in so doing had misdirected her mind in not appreciating that the acquisition costs expended by the appellant to purchase the Property was about RM1,314,844.00 (and not RM314,844.00), in that:-
- E (1) The Appellant had bought 6 pieces of properties (including the subject Property) *en bloc* from Janavista;
- F (2) These said 6 pieces of properties were in abandoned status and located within a same housing Project;
- (3) Apart from the sale and purchase prices, a further sum of RM6 million (RM1 million for each property) had incurred by the Appellant to rectify and complete the properties (including the subject Property);
- G (4) The Appellant had produced sufficient evidence in establishing that the acquisition price incurred by the Appellant to acquire and complete the subject Property was above RM1,314,844.00 up to the stage of applying and procuring certificate of fitness; and
- (5) The alleged valuation of the subject Property by the Respondents was unreliable, and/or unsupported.
- H 11. The learned Judicial Commissioner erred in law and fact and without directing her mind whether the allegation of conspiracy complained of by the Respondents was a conspiracy by lawful or unlawful means and the relevant legal principles governing each of the tortious action.
- I 12. The learned Judicial Commissioner erred in law and fact in failing to hold that the Respondent had failed to establish the alleged conspiracy to defraud based on their pleaded case for lack of particulars, and/or further that insufficient valid evidence was adduced at the trial to prove:

- (1) the terms or ingredients of the alleged conspiracy involving the Appellant; (2) the existence of any alleged conspiratorial agreement involving the Appellant with other alleged conspirators; and/or (3) the alleged overt acts being carried out by the Appellant in furtherance of the alleged conspiratorial agreement. A
13. The learned Judicial Commissioner erred in law and fact in failing to hold that inadequate valid evidence was adduced by the Respondents to prove that the registration of the title in the name of the Appellant as proprietor of the subject Property was obtained by any insufficient or void instrument. B
14. The learned Judicial Commissioner erred in law and fact when in deciding the various issues before the Court without sufficient evaluation or appreciation of the evidence that the Appellant had conducted proper investigation prior to the purchase of the subject Property and that adequate acquisition costs were incurred by the Appellant and other relevant consideration. C
15. The learned Judicial Commissioner erred in law and fact in holding that the Respondents had priority over the subject Property despite a contrary findings of fact that the Respondents had failed to fully settle the purchase price or the loan sum not fully disbursed, and notwithstanding the undisputed facts that: (1) the Appellant was a party registered first in time on the official registry; and/or (2) the inaction of the Respondents to assert their alleged rights or interests over the subject Property by registering their alleged rights or interests. D E
16. The learned Judicial Commissioner had erred in law and fact in failing to consider sufficiently and/or to follow the previous decisions of the other Courts which involved similar dispute in the acquisition and completion of the said 5 other properties by the Appellant from Janavista which decisions were decided in favour of the Appellant concerning similar facts and legal issues. F
17. The learned Judicial Commissioner erred in law and fact in awarding a grossly inadequate conditional payment of RM314,844.00 to the Appellant without taking into sufficient consideration the costs incurred by the Appellant to complete the abandoned subject Property, the prevailing market value of the Property and/or that the Respondents had unjustly enriched themselves by obtaining a fully completed property with certificate of fitness from an abandoned property. G
18. The learned Judicial Commissioner erred in law and fact in failing to hold that the First and the Third Respondents: H
- (1) had no caveatable interest in the subject Property in law and accordingly the private caveats lodged by them ought to be removed forthwith and the Appellant's counterclaim be allowed with costs; and/or I
- (2) were wrong in law to have lodged the private caveat since at the relevant time of lodgment the Appellant had already been registered as the registered proprietor of the subject Property.

- A 19. The decision of the learned Judicial Commissioner was contrary to and wrong in law and was unreasonable that no reasonable tribunal in similar circumstances would have come to a similar decision.
- [17] What is important to note in this case are as follows:
- B (i) PKNS was the registered proprietor of the property and the first defendant was not;
- C (ii) The settlement agreement and the sale and purchase agreement which the first and second plaintiffs and the subsequent charge given to the third plaintiff in 2006 was done so when the individual title to the lot has been issued. From the documents before the court, it is an undisputed fact that the title to the lot has been issued in PKNS name in 2005 itself;
- D (iii) PKNS who had the title in its name to the property was not a party to the sale and purchase agreement related to the plaintiffs and in consequence, s. 340 of the NLC will be of no assistance to the plaintiffs in this suit. Only a registered proprietor can create a beneficial estate out of his title. (See *Borneo Housing Mortgage Finance Berhad v. Time Engineering Berhad (Formerly known as Time Engineering Sdn Bhd)* [1996] 2 CLJ 561; [1996] 2 MLJ 12);
- E (iv) The third defendant is the registered proprietor of the land, having obtained good title from PKNS which is indefeasible under s. 340 of the NLC renders the plaintiffs' claim unsustainable as per the pleaded case. On this issue, learned counsel for the appellant/third defendant submits as follows:
- F LAW
- G 18. The root principle of the Torrens system is that the register should be a mirror of title and that a purchaser should not have to search beyond this title: *Eu Finance Bhd v. Lim Yoke Foo* [1982] 2 MLJ 37, FC1. *Khaw Poh Chhuan v. Ng Gaik Peng* [1996] 1 MLJ 761, p. 778.
- H 19. The basic rule at law, as in equity, is that estates and interests primarily rank in order of creation. *Qui prio est tempore potior est jure*; he who is earlier in time is stronger in law. Where there is a system of registration of titles to land, like NLC, the one who succeeds in the scramble to get on the register emerges victorious.
- I 20. The law governing indefeasibility of title or interest in a land is principally found in s. 340 of the National Land Code 1965³ ("NLC"). where it provides:
340. Registration to confer indefeasible title or interest, except in certain circumstances

- (1) The title or interest of any person or body for the time being registered as proprietor of any land, or in whose name any lease, charge or easement is for the time being registered, shall, subject to the following provisions of this section, be indefeasible. **A**
- (2) The title or interest of any such person or body shall not be indefeasible: **B**
- (a) in any case of fraud or misrepresentation to which the person or body, or any agent of the person or body, was a party or privy; or
- (b) where registration was obtained by forgery, or by means of an insufficient or void instrument; or **C**
- (c) where the title or interest was unlawfully acquired by the person or body in the purported exercise of any power or authority conferred by any written law.
- (3) Where the title or interest of any person or body is defeasible by reason of any of the circumstances specified in subsection (2): **D**
- (a) it shall be liable to be set aside in the hands of any person or body to whom it may subsequently be transferred; and
- (b) any interest subsequently granted there out shall be liable to be set aside in the hands of any person or body in whom it is for the time being vested: **E**
- Provided that nothing in this sub-section shall affect any title or interest acquired by any purchaser in good faith and for valuable consideration, or by any person or body claiming through or under such a purchaser. **F**
- (4) Nothing in this section shall prejudice or prevent:
- (a) the exercise in respect of any land or interest of any power of forfeiture or sale conferred by this Act or any other written law for the time being in force, or any power of avoidance conferred by any such law; or **G**
- (b) the determination of any title or interest by operation of law.
21. Section 340 of NLC along with the distinction between “immediate defeasibility” and “deferred defeasibility” were extensively reviewed and considered by the Federal Court in *Tan Ying Hong v. Tan Sian San* [2010] 2 CLJ 2694. The relevant passages are found at pp. 283-4 **H**
- [19] Section 340 of the NLC introduced into our land law the concept of indefeasibility of title. This is central to the system of registration of title under the Torrens system. Raja Azlan Shah (as His Royal Highness then **I**

- A was in *PTJV Denson (M) Sdn Bhd v. Roxy (M) Sdn Bhd* [1980] 1 LNS 55 observed that 'the concept of indefeasibility of title is so deeply embedded in our land law that it seems almost trite to restate it.' Indefeasibility is defined by the Privy Council in *Frazer v. Walker* [1967] AC 569 at p 580 to mean:
- B The expression not used in the Act itself, is a convenient description of the immunity from attack by adverse claim to the land or interest in respect of which he is registered, which a registered proprietor enjoys. This conception is central in the system of registration. It does not involve that the registered proprietor is protected against any claim whatsoever; as will be seen later, there are provisions by which the entry on which he relies
- C may be cancelled or corrected, or he may be exposed to claims *in personam*. These are matters not to be overlooked when a total description of his rights is required. But as registered proprietor, and while he remains such, no adverse claim (except as specifically admitted) may be brought against him.
- D [20] Indefeasibility can be immediate or deferred.
- E [21] In short, immediate indefeasibility means that the immediate registered title or interest of the proprietor or transferee immediately to the vitiating circumstances will be conferred statutory protection despite the existence of any vitiating circumstances. In the case of deferred indefeasibility, the indefeasibility only comes to be attached to the title or interest upon a subsequent transfer. Thus, the difference between immediate and deferred indefeasibility hinges on the effect of registration *vis a vis* the title or interest.
- p. 291
- F [44] We agree with the court that the issue before the court, and likewise before us, is one of proper interpretation to be accorded to s. 340(1), (2) and (3) of NLC. ...
- pp. 293-4
- G [50] As we see it, sub-s. (3) merely provides that any title or interest of any person or body which is defeasible by reason of any the circumstances specified in sub-s.(2) shall continue to be liable to be set aside in the hands of subsequent holder of such title or interest. This subsection, however, is subject to the proviso which reads: ...
- H [51] We are of the view that the proviso is directed towards the provision of sub-s.(3) alone and not to the earlier subsection. This in our view is supported by the use of the words "in this subsection" in the proviso. Therefore, its application could not be projected into the sphere or ambit of any other provisions of s. 340.
- I [52] Furthermore, even though sub-s. (3)(a) and (b) refer to the circumstances specified in sub-s. (2) they are restricted to subsequent transfer or to interest in the land subsequently granted thereout. So it could not apply to the immediate transferee of any title or interest in any land. Therefore, a person or body in the position of Adorna Properties

could not take advantage of the proviso to the sub-s. (3) to avoid its title or interest from being impeached. It is our view that the proviso which expressly stated to be applicable solely to sub-s.(3) ought not to be extended as was done by the Court in *Adorna Properties*, to apply to sub-s. (2)(b). By so doing the court had clearly gone against the clear intention of Parliament. This error needs to be remedied forthwith in the interest of all registered proprietors. It is, therefore, highly regrettable that it had taken some time, before this contentious issue is put to rest.

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[53] For the above reasons, with respect, we hold that the Federal Court in *Adorna Properties* had misconstrued s. 340(1), (2) and (3) of the NLC and came to the erroneous conclusion that the proviso appearing in sub-s. (3) equally applies to sub-s. (2). By so doing the Federal Court gave recognition to the concept of immediate indefeasibility under the NLC which we think is contrary to the provision of s. 340 of the NLC.

C

BONA FIDE PURCHASER FOR VALUE (DEFERRED INDEFEASIBILITY)

22. In this case, PKNS was the first registered proprietor of the Land since 2005. The Land was sold to the 1st defendant and subsequently to the 3rd defendant.

D

23. On the evidence, the 3rd defendant is the subsequent purchaser of the Land. It is humbly submitted that s. 340(3) of NLC applies. The issue is whether the 3rd defendant is a *bona fide* purchaser for value of the Land.

E

Kindly see, *inter alia*:

- *Tan Ying Hong v. Tan Sian San supra*⁵;
- *Tan Ong Ban v. Teoh Kim Heng* [2016] 3 CLJ 193. FC. PP208-209 [52]⁶;
- *Yap Ham Seow v. Fatimawati bt Ismail* [2014] 1 MLJ 645, CA, p. 665 [61], p. 666 [64]⁷.

F

24. With the greatest of respect, the learned trial judge has misdirected herself on the facts and the law and this justifies appellate intervention as she had failed to determine first whether the provisions s. 340(2) or (3) applies.

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25. In *Dream Property Sdn Bhd v. Atlas Housing Sdn Bhd* [2015] 2 MLJ 441, the Federal Court held at p. 464⁸

[60] It is now established that the principle on which an appellate court could interfere with findings of fact by the trial court is 'the plainly wrong test' principle; see the Federal Court in *Gan Yook Chin (P) & Anor v. Lee Ing Chin @ Lee Teck Seng & Ors* [2005] 2 MLJ 1 (at p 10) per Steve Shim CJ (Sabah & Sarawak). More recently, this principle of appellate intervention was affirmed by the Federal Court in *UEM Group Bhd v. Genisys Integrated Engineers Pte Ltd & Anor* [2010] 9 CLJ 785 where it was held at p 800:

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- A It is well settled law that an appellate court will not generally speaking, intervene with the decision of a trial court unless the trial court is shown to be plainly wrong in arriving at its decision. A plainly wrong decision happens when the trial court is guilty of no or insufficient judicial appreciation of evidence (see *Chow Yee Wah & Anor v. Choo Ah Pat* [1978] 1 LNS 32; *Watt v. Thomas* [1947] AC 484; and *Gan Yook Chin & Anor v. Lee Ing Chin & Ors* [2004] 4 CLJ 309).
- B
26. In *UEM Group Bhd v. Genisys Integrated Engineers Pte Ltd* [2010] 9 CLJ 785, the Federal Court held at p. 800:
- C [26] Thus, the prime issue in respect of Questions 1 to 3 is whether the Court of Appeal had erred in interfering with the findings of facts of the trial judge. It is well settled law that an appellate court will not generally speaking, intervene with the decision of a trial court unless the trial court is shown to be plainly wrong in arriving at its decision. A plainly wrong decision happens when the trial court is guilty of no or insufficient judicial appreciation of evidence. (See *Chow Yee Wah & Anor v. Choo Ah Pat* [1978] 1 LNS 32; *Watt or Thomas v. Thomas* [1947] AC 484; and *Gan Yook Chin & Anor v. Lee Ing Chin & Ors* [2004] 4 CLJ 309).
- D
27. In *Dr. Shanmuanathan v. Periasamy s/o Sithambaram Pillai* [1997] 3 MLJ 61, the Federal Court held at p. 82¹⁰:
- E ... having regard to the fact that the trial judge had overlooked or failed to take into account or given proper weight to, or drawn proper inferences from, the matters to which we have adverted, which otherwise might have caused him to come to a different conclusion, we were satisfied that he had not taken proper advantage of his having seen and heard witnesses (per Lord Thankerton in *Watt or Thomas v. Thomas* [1947] 1 All ER 582) and so the present appeal came within the range of those cases where we were at liberty to act upon our own view of the conflicting evidence.
- F
- G 28. The Federal Court in *Asean Security Paper Mills Sdn Bhd v. CGU Insurance Bhd* [2007] 2 CLJ 1, 18H-I11 held:
- It is well established that failure to consider important (material) evidence or important surrounding circumstances would constitute an error of law and it would be open to interfere in second appeal.
- H 29. Further, the Federal Court in *Arab-Malaysian Finance Bhd v. Steven Phoa Cheng Loon* [2003] 1 CLJ 585 at pp 599d, 599-600¹² held:
- I Where the trial Court has so fundamentally misdirected itself that one may safely say that no reasonable court which had properly directed itself and asked the correct questions would have arrived at the same conclusion.

Where the decision occasions a substantial wrong or miscarriage of justice. That wrong or miscarriage of justice may consist of a judgment in favour of the wrong party. It may also consist of a failure in the judicial process to which both parties are entitled as of right, namely, the weighing of the respective cases and contentions.

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[18] What was posed by the parties as complex issues at the trial court framing convoluted questions as issues have been remedied by learned counsel for the appellant/third defendant in a simple manner for us to deal with the appeal.

B

[19] Learned counsel for the third defendant's submission *inter alia* reads as follows:

C

1. The plaintiffs' case is that they obtained a beneficial interest in the subject property that is superior to that of the third defendant's.

2. To address that contention, the starting point is to recognise that PKNS was the registered proprietor of the subject property and had no dealings whatsoever with the plaintiffs.

D

3. What the plaintiffs assert is an alleged beneficial interest in the subject property that they acquired from the first defendant who was not the registered proprietor. The third defendant says "alleged" because the precise nature of the interest and the manner in which the first defendant acquired interest from PKNS was not established by the plaintiffs. By contrast, the third defendant went onto the register as proprietor pursuant to a memorandum of transfer executed by PKNS.

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4. The third defendant rests its case on the proposition that only a registered proprietor may create a beneficial estate out of his title. In *Borneo Housing Mortgage Finance Bhd v. Time Engineering Bhd* (1996) 2 MLJ 12, the Federal Court expressed the true proposition in the following terms:

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In our view, the contractual events which result in the vendor becoming a bare trustee of the land, the subject matter of the agreement of sale and purchase, for the purchaser, is on completion, that is to say, upon receipt by the vendor of the full purchase price, timeously paid and when the vendor has given the purchaser a duly executed, valid and registrable transfer of the land in due form in favour of the purchaser, for it is then that the vendor divests himself of his interest in the land.

G

5. In the present case, it is NOT the plaintiffs' case that PKNS was a bare trustee for them. Their case is that the first defendant was a bare trustee of its beneficial interest. With respect that is not correct. What happened here was an absolute sale of an alleged beneficial interest in the subject property by the first defendant to the first plaintiff (who then subsequently and absolutely assigned this to the third plaintiff). There was no equitable estate left in the hands of the first defendant to constitute it a bare trustee. It is settled law that there can be no trust unless there is property - either legal or equitable upon which a trust may be impressed. A trust cannot exist *in vacuo*.

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- A** 6. So, at best what the plaintiffs took was the interest of the first defendant allegedly had in the subject property. As against that, the third defendant has the registered proprietorship. And there is no attack on the title of PKNS on the ground that it had nothing to transfer. As such the registered title of the third defendant is protected by the indefeasibility provision in section 340(1).
- B** [20] Learned counsel for the plaintiffs was not able to convince us on the title issue and the applicability of s. 340 NLC which we mentioned earlier.
- C** [21] We have read the appeal record and the able submissions of the parties. After much consideration to the submission of learned counsel for the plaintiffs, we take the view that the appellant/third defendant's submission stated above has merits and in consequence, the third defendant's appeal is allowed with costs of RM25,000 subject to allocatur and the plaintiffs' appeal is dismissed with no order as to costs. All the orders of the High Court are set aside. Deposit is to be refunded.
- D** We hereby order so.
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